IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO.2336 OF 2005.

WITH

CIVIL APPLICATION NO.2337 OF 2005.

IN

FIRST APPEAL STAMP NO.25961 OF 2004.

Shri Chandresh Sukarchand
Aher : Appellant.

versus

Smt.Sharada Sukarchand Aher : Respondent.

Mr.H.R.Pawar for the appellant.
Mr.K.R.Belosey for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 16th September 2005.

ORAL ORDER

1. Heard the advocates for the appellant and respondent. So far as Civil Application No.2336 of 2005 is concerned, it is for condonation of

delay of 97 days. The counsel for the respondent has no serious objection. Hence the delay is condoned. By consent, the Appeal is taken up for final hearing.

2. When the matter had appeared before me earlier it transpired that Sukharchand Aher died leaving behind him Smt.Sarada - the respondent as his widow. This appellant/applicant Chandresh is the adopted son. Adoption was taken place after the death of Sukarchand at the instance of the respondent. The respondent applied for succession certificate. That was granted. Therefore, this appeal.

2. When these facts were noticed it was suggested to the appellant that in any case grant of succession certificate does not finally determine the rights of a person in the property and it only entitles a person to receive the amount for which the succession certificate is claimed or granted. Therefore, the only remedy available for the appellant was to file a suit to establish his claim.

3. Counsel for the appellant, after

instruction, today states that he may be permitted to withdraw all these applications and the appeal with liberty to file appropriate proceedings before the proper court. Counsel for the appellant contended, as per his instruction, that the company with whom the deceased was serving, has not disbursed the amount till today and it is still lying with the said company. At this juncture counsel for the respondent submitted that the respondent is a widow, she has no other heir, she has no source of income, therefore, she may be permitted to withdraw the amount.

4. In view of the rival submissions I pass the following order :-

:ORDER:

The Civil Application No.2336 of 2005 is disposed of and the Civil Application No.2337 of 2005 and the Appeal are allowed to be withdrawn. They are disposed of.

Out of the amount lying with the employer

of the deceased Sukarchand i.e. Ammunition Factory Khadki Pune, 50% amount shall be paid by them to the respondent and 50% shall be deposited by them with the District Judge, Pune, which will be invested by District Judge Pune in a nationalised bank for a period of three years initially, within four weeks from the communication of this order.

The appellant will take out appropriate proceedings within eight weeks from today positively without fail. If he does not do so, the District Judge, Pune disburse the remaining amount to Smt.Sharada.

This order will be served upon the employer by both the parties.

Certified copy expedited.

[D.G.DESHPANDE,J]